THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No:10066 of 2007

DATED:10-08-2007

BETWEEN:

Pothana Siddhaiah.

..... PETITIONER

AND

A.P.State Financial Corporation,
Rep., by its Senior Branch Manager,
Warangal Branch,
Warangal & 4 others.

.....RESPONDENTS

ORDER:

Heard learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the 1st respondent in selling the collateral property on 18-03-2006 even before the expiry of validity period of tenders/offers, dated 09-05-2006, as illegal, arbitrary, and consequently set aside the sale in favour of the 4th respondent.

3. It is the case of the petitioner that he is the owner of the premises bearing No.11-1-123 admeasuring 150 sq.yards at Labour Colony, Warangal and the said property was given as collateral security towards the loan amount of Rs.5,00,000/- advanced by the 1st respondent in favour of the respondents 2 and 3 but as the said loanees defaulted the payment of instalments petitioner was put on a notice, dated 03-02-2006, which was served on him informing that in view of the default committed by Nagaraju Industries set up by the respondents 2 and 3 the property of the petitioner, offered as collateral security, is published for sale in Eenadu daily and the period of advertisement is valid for ninety days and the tenders can be accepted upto 09-05-2006. 2nd respondent is the son of the petitioner.

4. It is stated that in fact, 3rd respondent also offered his property but without proceeding against the 3rd respondent, 1st respondent proceeded against the property of the petitioner alone. It is stated that the highest offer was also displayed on the notice board for further process. It is the case of the petitioner that had they waited upto the last date of validity of the advertisement i.e., 09-05-2006, he would have secured a better bidder to offer more money and therefore the confirmation of sale on 18-3-2006 even before the expiry of valid period of the advertisement is illegal and arbitrary.

5. No doubt, the publication made on 03-02-2006 goes to show that the advertisement is valid upto ninety days and the tenders can be accepted upto 09-05-2006 but it was specifically mentioned requesting the petitioner and others to bring the prospective buyers to purchase the collateral security property for better price and if no response is there, it is open for the 1st respondent to finalize the sale for whatever highest price received by them.

6. Counter has been filed by the respondents 1 and 5 stating that the property of the petitioner was given as collateral security showing its value as Rs.1.01 lakhs and the property of the 3rd respondent was also given as collateral security the value of which was Rs.7.40 lakhs. It is stated that the value mentioned against the properties is as on the date of furnishing the properties as collateral security and that does not mean that the liability of the guarantor is limited to the extent of the property furnished, and

liability of the surety would continue till the loan is cleared or property is sold by way of public auction for recovering the dues. Therefore, the Corporation is at liberty to proceed against the property of the petitioner which was given as collateral security, and accordingly action has been taken under
Section 29 of the State Financial Corporations Act. It is stated that no doubt the value estimated at the time of sanction was Rs.1.01 lakhs in the year 2003 but the same was revalued at Rs.2.64 lakhs as on 08-02-2006 and the same was sold for a sum of Rs.2.40 lakhs in favour of the 4th respondent. Therefore, it is stated that the request of the petitioner to release the property on payment of the value of Rs.1.01 lakhs which was estimated at the time of giving collateral security in 2002, cannot be accepted. The property was already sold for a sum of Rs.2.40 lakhs in favour of the 4th respondent and possession of the property was also delivered in favour of the purchaser on 06-02-2006.

7. Insofar as the contention that the respondents released the collateral security property in certain cases but they have
not considered the case of the petitioner, it is stated that the collateral security properties which were released only on payment of the value at the time of releasing but not on payment of the value furnished at the time of sanction. It is stated that had the petitioner asked for release pursuant to the advertisement on the date of the value they would have considered but in the instant case there was no such request.

8. Insofar as the contention of the petitioner that the

respondents 1 and 5 ought to have waited upto 09-05-2006,
I am unable to accept the same. Admittedly petitioner was put on a notice about the advertisement and also about the offer made by the 4th respondent giving sufficient time to give more offer than the 4th respondent but the petitioner failed to avail the opportunity and therefore it cannot be said that the 1st respondent has no right to finalise the highest offer upto the last date of validity of the advertisement. In fact, the said advertisement goes to show that the maximum period during which the offers can be received is upto 09-05-2006 but it cannot be said that the 1st respondent cannot ask for the offers. In the instant case normal procedure has been followed and therefore, I am of the opinion that the petitioner is not entitled for the relief prayed for in this Writ Petition.

9. Accordingly, Writ Petition is dismissed. No order as to costs.

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V. ESWARAIAH,J

10th August, 2007
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